

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NORTH DAKOTA**

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|--|---|----------------------|
| XTO Energy Inc., and XTO |) | |
| Holdings, LLC, |) | |
| |) | ORDER |
| Plaintiffs, |) | |
| |) | |
| vs. |) | |
| |) | |
| North Dakota Board of University and |) | Case No. 1:19-cv-076 |
| School Lands, and the United States of |) | |
| America, |) | |
| |) | |
| Defendants. |) | |

On April 28, 2019, XTO Energy, Inc. and XTO Holdings, LLC (collectively “XTO”) initiated this action for interpleader with respect to royalty payments attributable to properties in which North Dakota and the United States both claim competing rights and interests. On January 13, 2020, XTO filed a motion requesting leave to deposit with the Court royalty payments attributable the properties at issue.

On July 20, 2020, the parties filed a stipulation regarding the deposit of royalty payments. According to the stipulation, XTO entered into an agreement with North Dakota Board of University & School Lands (“Land Board”) and its agent, the Bank of North Dakota (“BND”), to deposit with BND royalty payments attributable to production from wells in the land at issue in this case. The parties now agree to transfer royalty payments on deposit at BND to the Court’s registry. They also seek leave to deposit with the court royalties as they accrue until the underlying dispute regarding these properties is resolved.

The court **ADOPTS** the parties' stipulation (Doc. No. 50) in part. The court shall authorize XTO to transfer funds already on deposit with BND to the court's registry. However, going forward, it shall not prospectively authorize the deposit of yet to be determined royalties attributable the properties at issue. Rather, XTO shall be required to obtain the court's authorization to make a deposit each time it has additional royalties for deposit. DN.D. Civ. L.R. 1.10(B)(2). Accordingly, the Court **ORDERS**:

1. XTO entered into an agreement with the Land Board and its agent, the Bank of North Dakota ("BND"), to deposit with BND certain funds attributable to production from the properties at issue. As of November 20, 2020, the amount deposited with BND is \$3,060,527.72. This amount shall be deposited in the "Disputed Ownership Fund" (DOF) established within the CRIS and administered by the Administrative Office of the United States Courts, which shall be responsible for meeting all DOF tax administration requirements. D.N.D. Civ. Gen. R. 1.10(A)(3) and (B)(2). The custodian is authorized and directed to deduct the DOF fee on assets on deposit in the DOF for management of investments and tax administration and to withhold and pay federal taxes due on behalf of the DOF without further order of the court. Id.
2. Upon deposit of these funds, XTO shall provide to the Land Board and United States an explanation that identifies for each well and each month of production for which the deposit is made the information XTO used to calculate the amount transferred. The information must be similar to that on the "royalty statements" XTO uses in paying the Land Board royalties on land for which state title is not in dispute.

3. All funds deposited with the Court shall remain there subject to Court order regarding their distribution.
4. XTO shall have 30 days from the date of this Order to commence its deposit of funds. The instrument to be deposited in the registry must be made payable to the United States District Court. No third-party checks will be accepted. All funds must be forwarded to the Fargo clerk's office for deposit.
5. Prior to the Court issuing an order disbursing funds, any party claiming the funds must file, under seal, a document setting forth:
 - a. The full mailing instructions for each disbursement check, including street address and zip code; and
 - b. A completed IRS form W-9 and AO-213.

IT IS SO ORDERED.

Dated this 23rd day of November, 2020.

/s/ Clare R. Hochhalter
Clare R. Hochhalter, Magistrate Judge
United States District Court